

City Council Minutes
December 13, 2011

Regular Meeting
City Hall Council Chambers

Tuesday, December 13, 2011
6:00 p.m.

The regular meeting was called to order by Chairman Jerry Goss.
The city clerk called the roll:

Councilor Ferris	-	present	Councilor Doughty	-	present
Councilor Verow	-	present	Chairman Goss	-	present
Councilor O'Connell	-	present			

Chairman Goss declared a quorum present. City Manager Bost and City Solicitor Dearborn were also present.

Chairman Goss led members of the council and others present in reciting the pledge of allegiance to the flag of the United States of America.

Chairman Goss read the notice for the regular meeting.

TO: Joseph Ferris, Larry Doughty, Arthur Verow, Jerry Goss and Kevin O'Connell
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified a regular meeting of the City Council will be held on Tuesday, December 13, 2011 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider and act on the items on the attached agenda.

s/Jerry Goss
Mayor and Chairman of the City Council

or _____
Majority of the City Council

a true copy, attest: s/Howard F. Kroll
City Clerk

OFFICER'S RETURN

I have on the date(s) and time(s) indicated given notice of this meeting by giving in hand or by leaving at the usual dwelling place of the within named an attested copy of this notice of meeting:

Given/Delivered to:	by (person delivering)	Title	Date	Time
Joseph Ferris	K. Bouchard	Ptl.	12/09/11	1830
Larry T. Doughty	H. Kroll	CC	12/09/11	3:00pm
Arthur Verow	P. Gauvin		12/09/11	1640
Jerry Goss	P. Gauvin		12/09/11	1645
Kevin O'Connell	K. Bouchard	Ptl.	12/09/11	1815

CITY COUNCIL REGULAR MEETING
Tuesday, December 13, 2011 6:00 P.M.
Brewer City Hall Council Chambers

- I. Call to Order.** (Mayor Jerry Goss)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America. Regular Meeting**
(Mayor Goss)
- A. Minutes of November 10, 2011 Special Meeting, November 14, 2011 Regular
November 15, 2011 Annual Meeting and November 29, 2011 Special Meeting.**
(Councilor Verow)
- B. Awards, Petitions and Public Comments.**
 - 1. Public Comments.
- C. Consent Calendar.**
 - 1. (2011-A224) ORDER, Accept Donation to the Brewer Parks and City Hall Recreation Department for the Annual Brewer Days Celebration. (Councilor O'Connell)
 - 2. (2011-A225) ORDER, Commit Water Assessment to Treasurer for Collection. (Councilor Ferris)
 - 3. (2011-A226) ORDER, Commit Sewer Assessment to Treasurer for Collection. (Councilor Doughty)
 - 4. (2011-A227) ORDER, Designate City Manager to Act as Agent of the City Council for Approval of Utility Location Permits. (Councilor Verow)
 - 5. (2011-A228) ORDER, Authorize City Manager, or His Designee, to Sign Release Deeds on Behalf of the City of Brewer. (Councilor O'Connell)
 - 6. (2011-A229) ORDER, Authorize City Clerk to Sign Applications for Renewal of Liquor Licenses on Behalf of the City Council. (Councilor Verow)
 - 7. (2011-A230) ORDER, Authorize City Clerk, or in the Absence of the City Clerk, a Deputy City Clerk, to Sign Applications for Liquor Catering Events, Beano Licenses, Bingo Licenses and Other Games of Chance on Behalf of the City Council. (Councilor Doughty)
 - 8. (2011-A231) ORDER, Authorize the City Manager, Stephen Bost, or His Designee, to Apply For, Accept and be the Designated City Official to Accept Delivery of Forfeited Property on Behalf of the City of Brewer and To Authorize the City Solicitor, Joel Dearborn, To Certify on all Applications for Forfeited Property to the Authority of the City Manager To Act on Behalf of the City of Brewer. (Councilor O'Connell)

9. (2011-A232) ORDER, Authorize the Purchase of Closed Circuit Television (CCTV) Sewer Inspection Equipment. (Councilor Ferris)
10. (2011-A233) ORDER, Accept Contribution to the Brewer Public Library from Lawrence and Andrea Pennington and Authorize Use of These Funds for the Brewer History Room Project. (Councilor Verow)
11. (2011-A234) ORDER, Accept Funds to the Brewer Public Library from the Sale of Baked Goods for the Holidays and Authorize Use of These Funds for the Brewer History Room Project. (Councilor Doughty)
12. (2011-A235) ORDER, Accept Donation from Beef O’Brady’s to the Brewer Fire Department for the Public Safety Museum. (Councilor Verow)
13. (2011-A236) ORDER, Accept Funds in a Forfeiture Resulting from a Recent Court Case that the Brewer Police Made a Substantial Contribution in the Successful Prosecution of. (Councilor O’Connell)
14. (2011-A237) ORDER, Accept a Quitclaim Deed with Covenant from the City of Brewer High School District Trustees for the Dedication and Acceptance of an Extension of Center Street Pursuant to Title 23 M.R.S.A. Section 3025. (Councilor Doughty)
15. (2011-A238) ORDER, Accept Donation to the Brewer Parks and Recreation Department for the Afterschool Program. (Councilor Ferris)
16. (2011-A239) ORDER, Authorize Change Order to Penta Corporation on the Septage Receiving Station Project for \$42,173. to Cover Additional Costs Associated With the Project. (Councilor Verow)
17. (2011-A240) ORDER, Authorize Change Order to T Buck for \$100,000 to Cover Additional Costs Resulting From Unanticipated Subsurface Conditions on the Bulkhead Replacement Project. (Councilor O’Connell)

D. Monthly Reports. (Councilor Verow)

E. Nominations, Appointments, Elections.

1. (2011-A241) ORDER, Appoint City Manager to Approve Road Excavation Permits. (Councilor O’Connell)
2. (2011-B040) RESOLVE, Ratify Director of Environmental Services’, or His Designee, Appointment of Agents at the Landfill. (Councilor Ferris)
3. (2011-B041) RESOLVE, Accept Resignation of Marilyn Sproul From the Board of Commissioners of the Housing Authority of the City of Brewer. (Councilor Doughty)

4. (2011-B042) RESOLVE, Accept Resignation of Jerry Goss From the High School District Trustees of the City of Brewer. (Councilor Verow)
5. (2011-A242) ORDER, Appoint Manley DeBeck, Jr. to the High School District Trustees of the City of Brewer to Fill a Vacancy for an Unexpired Term. (Councilors Doughty and O'Connell)

F. Unfinished Business.

1. (2011-C016) Amend the Land Use Code, Chapter 24, Article 3 Zoning Districts, Section 307.1 Schedule of Dimensional Requirements, Item 7 Maximum Building or Structure Coverage Percentage of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Doughty) (posted 10/10/11)
2. (2011-C017) Amend the Land Use Code, Chapter 24, Article 4 Performance Standards, Section 438.7 Medical Marijuana Registered Dispensaries and Medical Marijuana Cultivation Facilities, Item 7 of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Goss)(posted 10/10/11)

G. New Business.

1. (2011-C020) Amend the Land Use Code, Chapter 24, Article 4 Performance Standards, Section 430 Signs, of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Doughty)
2. (2011-C021) Amend Chapter 28 The Brewer Sign Ordinance, of the Charter, Codes and Ordinances of the City of Brewer by Complete Substitution of the Chapter. (Councilor Verow)
3. (2011-A243) ORDER, Convene in Executive Session Pursuant to Title 1, M.R.S.A. §405(6)(E) on a Legal Matter. (Councilor O'Connell)

H. New Items with Leave of Council.

I. ADJOURN

A. Minutes of November 10, 2011 Special Meeting, November 14, 2011 Regular November 15, 2011 Annual Meeting and November 29, 2011 Special Meeting.

ACTION: Councilor Verow moved that the minutes be accepted and placed on file. The motion was seconded and passed by unanimous vote.

B. Awards, Petitions and Public Comments.

Public Comments.

1. Mayor Goss welcomed the boy scouts who were in the audience observing the meeting.
2. Mayor Goss thanked Gordon Stitham, Executive Director of the Housing Authority for his on going work on Housing Authority projects.

Gordon Stitham described the three projects that are taking place within the Housing Authority's jurisdiction.

Council Doughty asked if any of the projects were going to be taxable.

Gordon Stitham said no this is an upgrade to our existing infrastructure.

Councilor Verow said the City Planner's monthly report mentions that you will be required to update your site plan. Is that with the state?

Gordon Stitham said yes, with MEDEP, it should take 2 months.

Councilor Ferris said congratulations on these great projects and the board members that made it happen over the year.

Mayor Goss said I would also like to congratulate the Housing Authority on these incredible projects within the city. Our Housing Authority has done an outstanding job on these projects.

Gordon Stitham introduced the three board members present tonight – Allen Campbell, Helen Bean and Connie Robichaud.

C. Consent Calendar.

ACTION: Councilor Doughty removed order 2011-A224 from the consent calendar. Councilor Verow removed orders 2011-A239 and 240 from the consent calendar. Councilor Verow moved that the remaining orders on the consent calendar have passage. The motion was seconded and passed by unanimous vote.

2011-A224

December 13, 2011

TITLE: ORDER, ACCEPT DONATION TO THE BREWER PARKS
AND RECREATION DEPARTMENT FOR THE
ANNUAL BREWER DAYS CELEBRATION.

filed December 7, 2011
by Kevin O'Connell

WHEREAS, the City of Brewer has received a donation of \$500.00 from National Bath System for support of this year's Brewer Days Celebration;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts this generous donation, and directs that the donated funds be receipted to account 0200000 320000 71002 (Brewer Days Contributions); and

FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0200000 520000 71002 (Brewer Days Expense).

NOTE: The Brewer Parks and Recreation Director sends a letter of acknowledgement and appreciation on behalf of the City Council to these businesses for their generous donations.

ACTION: Councilor O'Connell moved that the order have passage. The motion was seconded and passed.

Councilor Doughty asked what National Bath System was?

Parks and Recreation Director Ken Hanscom said that is the corporate name used for

The order was passed by unanimous consent.

2011-A225

December 13, 2011

TITLE: ORDER, COMMIT WATER ASSESSMENT TO TREASURER
FOR COLLECTION.

filed December 7, 2011
by Joseph Ferris

WHEREAS, under Chapter 40 of the Water Department Ordinance of the City of Brewer, a water charge is assessed to water users;

NOW, THEREFORE WE, the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$606,434.73** at the established rate, as provided by Maine Law and as such sections may be amended from time to time; and

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FURTHER, IT IS ORDERED, that said charges are due and payable on the date of this commitment; and

EVENT	COMMITMENT	COMMENTS
December, 2011	\$600,729.57	
September, 2011	\$ 2,146.15	
October, 2011	\$ 2,025.34	
November, 2011	\$ 1,533.67	
Total	\$606,434.73	

FURTHER, IT IS ORDERED, that a detailed commitment of the **\$606,434.73** is on file in the City Clerk's office and incorporated into this order; and

FURTHER, IT IS ORDERED, that a majority of the City Council shall sign the detailed commitment on file in the City Clerk's office; and

FURTHER, IT IS ORDERED, that the City Clerk shall deliver the signed commitment to the City Treasurer, as agent for the City Council.

2011-A226

December 13, 2011

TITLE: ORDER, COMMIT SEWER ASSESSMENT TO TREASURER
FOR COLLECTION.

filed December 7, 2011
by Larry T. Doughty

WHEREAS, under Chapter 31 of the Sewer and Pre-treatment Ordinance of the City of Brewer, a sewer charge is assessed to sewer users;

NOW, THEREFORE WE, the Brewer City Council does hereby commit to the Treasurer or Deputy Treasurer of Brewer for collection, the sum of **\$501,547.90** at the established rate, as provided by Title 30-A M.R.S.A. § 3406 and Title 38 M.R.S.A. § 1208 and as such sections may be amended from time to time; and

FURTHER, IT IS ORDERED, that said charges are due and payable on the date of this commitment; and

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EVENT	COMMITMENT	COMMENTS
December, 2011	\$497,302.55	
September, 2011	\$618.57	
October, 2011	\$1,189.59	
November, 2011	\$2,437.19	
Total	\$501,547.90	

FURTHER, IT IS ORDERED, that a detailed commitment of the **\$501,547.90** is on file in the City Clerk's office and incorporated into this order; and

FURTHER, IT IS ORDERED, that a majority of the City Council shall sign the detailed commitment on filed in the City Clerk's office; and

FURTHER, IT IS ORDERED, that the City Clerk shall deliver the signed commitment to the City Treasurer, as agent for the City Council.

2011-A227

December 13, 2011

TITLE: ORDER, DESIGNATE CITY MANAGER TO ACT AS AGENT OF THE CITY COUNCIL FOR APPROVAL OF UTILITY LOCATION PERMITS.

filed December 7, 2011
by Arthur Verow

ORDERED, that Stephen Bost, Brewer City Manager, is herewith authorized to accept applications for utility location permits on behalf of the City Licensing Authority, to wit, the City Council, for calendar year 2012; and

FURTHER ORDERED, that Stephen Bost, in his capacity as Brewer City Manager, is authorized to approve such applications on behalf of the Brewer City Council during calendar year 2012.

NOTE: *Chapter 20 of the City of Brewer Code of Ordinances entitled "Licenses and Permits", under Section 307 provides that the City Council may designate the City Manager to accept and approve applications for utility location permits in their behalf.*

2011-A228

December 13, 2011

TITLE: ORDER, AUTHORIZE CITY MANAGER, OR HIS DESIGNEE, TO SIGN
RELEASE DEEDS ON BEHALF OF THE CITY OF BREWER.

filed December 7, 2011
by Kevin O'Connell

ORDERED, that the City Manager, or his designee, is herewith authorized to sign Release/Municipal Quit-Claim Deeds on behalf of the City of Brewer releasing any interest the City might have in and to real estate covered by a Tax Collector's Lien Certificate which has been paid within the statutory period of redemption, but not discharged by the City Treasurer within the same time period.

2011-A229

December 13, 2011

TITLE: ORDER, AUTHORIZE CITY CLERK TO SIGN APPLICATIONS
FOR RENEWAL OF LIQUOR LICENSES ON BEHALF
OF THE CITY COUNCIL.

filed December 7, 2011
by Arthur Verow

ORDERED, that the City Clerk is herewith authorized to sign, on behalf of and as agent of the City licensing authority, to wit, the City Council, all applications for renewal of State of Maine Liquor licenses during calendar year 2012. This authorization is subject to the limitation on his authority as set forth in Chapter 20 of the Charter, Codes and Ordinances of the City of Brewer.

NOTE: *This authority is not applicable to new liquor license applications or changes in types of liquor licenses nor does it apply to special amusement permits for dancing and live entertainment. The City Council shall continue to hold public hearings on new and changed liquor license applications and on applications for new, changed and renewal of special amusement permits for dancing and live entertainment.*

2011-A230

December 13, 2011

TITLE: ORDER, AUTHORIZE CITY CLERK, OR IN THE ABSENCE OF THE CITY CLERK, A DEPUTY CITY CLERK, TO SIGN APPLICATIONS FOR LIQUOR CATERING EVENTS, BEANO LICENSES, BINGO LICENSES AND OTHER GAMES OF CHANCE ON BEHALF OF THE CITY COUNCIL.

filed December 7, 2011
by Larry T. Doughty

ORDERED, that the City Clerk, or in the absence of the City Clerk, a Deputy City Clerk, is herewith authorized to sign, on behalf of and as agent of the City Licensing Authority, to wit, the City Council, all applications to operate beano, bingo or other games of chance during the year 2012. This authorization is subject to the limitation on the City Clerk's authority as set forth in Chapter 20 of the Charter, Codes and Ordinances of the City of Brewer; and

FURTHER ORDERED, that the City Clerk is herewith authorized to sign, on behalf of and as agent of the City Licensing Authority, to wit, the City Council, all applications for catered events at which alcohol is to be served by persons, corporations or other legal entities licensed by the State of Maine to do liquor catering during the year 2012. The City Clerk is also authorized to sign, on behalf of and as agent of the City Licensing Authority, to wit, the City Council, all applications to the State of Maine for approval for events at the Brewer Auditorium at which BYOB is permitted during the year 2012. This authorization is subject to the limitation on the City Clerk's authority as set forth in Chapter 20 of the Charter, Codes and Ordinances of the City of Brewer.

2011-A231

December 13, 2011

TITLE: ORDER, AUTHORIZE THE CITY MANAGER, STEPHEN BOST, OR HIS DESIGNEE, TO APPLY FOR, ACCEPT AND BE THE DESIGNATED CITY OFFICIAL TO ACCEPT DELIVERY OF FORFEITED PROPERTY ON BEHALF OF THE CITY OF BREWER AND TO AUTHORIZE THE CITY SOLICITOR, JOEL DEARBORN, TO CERTIFY ON ALL APPLICATIONS FOR FORFEITED PROPERTY TO THE AUTHORITY OF THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF BREWER.

filed December 7, 2011
by Kevin O'Connell

WHEREAS, from time to time, the City of Brewer becomes eligible to receive forfeited property as the result of its Police Department personnel being involved in resolving criminal cases; and

WHEREAS, in order to receive forfeited property an application must be prepared and submitted on behalf of the City; and

WHEREAS, the City needs to designate a person who may accept forfeited property on its behalf;
and

WHEREAS, the City also needs to designate the person to receive the delivery of the transfer of
forfeited documents and/money on behalf of the City; and

WHEREAS, the City Solicitor has to certify in the application for transfer of forfeited property to
the authority of the person signing the application;

NOW THEREFORE, IT IS HEREBY ORDERED, by the Brewer City Council as follows:

1. The City Manager, Stephen Bost, or his designee, is authorized to sign any and all applications for the transfer of forfeited property on behalf of the City of Brewer.
2. The City Manager, or his designee, is authorized to accept forfeited property on behalf of the City.
3. The City Manager, or his designee, is hereby designated as city official to receive the delivery of any and all forfeited documents and/or money on behalf of the City.
4. The City Solicitor, Joel Dearborn, is authorized to certify to the authority of the City Manager, or his designee, to act on behalf of the City, as provided in this Order on any and all applications for the transfer of forfeited property.

2011-A232

December 13, 2011

TITLE: ORDER, AUTHORIZE THE PURCHASE OF CLOSED CIRCUIT
 TELEVISION (CCTV) SEWER INSPECTION EQUIPMENT.

filed December 7, 2011
by Joseph Ferris

WHEREAS, on September 30, 2011 we accepted bids from two companies, Bahr Sales, Inc. and Aires Industries Inc. for closed circuit television sewer inspection equipment; and

WHEREAS, Aires Industries Inc., was apparent low bidder, but has been disqualified due to their bid not meeting the technical specifications set forth for the equipment; and

WHEREAS, Bahr Sales, Inc. submitted a bid of \$53,800 for the CCTV sewer inspection equipment and offered the City a \$10,000 credit as a trade in value for the City's old van and CCTV inspection equipment for a total bid of \$43,800; and

WHEREAS, Aires Industries Inc. submitted a bid of \$43,425 for the CCTV sewer inspection equipment and offered the City a \$5,000 credit as a trade in value for the City's old van and CCTV sewer inspection equipment for a total bid of \$38,425; and

WHEREAS, Aires Industries Inc. did not include the following items, required by the specifications, in their bid:

1. Portable dolly assembly with collapsible heavy duty handles and removable wheels to allow station to be set in van- \$8,903 value
2. One set of pneumatic tires to inspect 15” through 24” size pipes with heavy debris- \$1,875 value

WHEREAS, when you include the value of the above two items in Aires Industries Inc. bid, Aires Industries Inc. total bid price would increase to \$49,203 which is \$5,403 higher than the Bahr Sales, Inc. bid; and

WHEREAS, the purchase of the CCTV sewer inspection equipment is being funded by grant money from USDA Rural Development American Recovery and Reinvestment Act Stimulus funds;

NOW, THEREFORE, BE IT ORDERED, that the City Council herewith authorizes the City Manager to issue a purchase order to Bahr Sales, Inc. for \$43,800 for the purchase of closed circuit television sewer inspection equipment and to charge the equipment cost to account number 0680402-560045 (Video Equipment); and

FURTHER ORDERED that the City Council of the City of Brewer herewith exercises its authority under Section 404 of the City’s Purchasing Ordinance, Chapter 36 of the Charter, Codes and Ordinances of the City of Brewer in the purchase of contractor services for this project.

2011-A233

December 13, 2011

TITLE: ORDER, ACCEPT CONTRIBUTION TO THE BREWER PUBLIC LIBRARY FROM LAWRENCE AND ANDREA PENNINGTON AND AUTHORIZE USE OF THESE FUNDS FOR THE BREWER HISTORY ROOM PROJECT.

filed December 7, 2011
by Arthur Verow

WHEREAS, the Brewer Public Library has received a contribution of \$350 from Lawrence and Andrea Pennington; and

WHEREAS, the library would like the funds to be used in the Brewer History Room project;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts the contribution of \$350 from the Pennington’s; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the funds be deposited in 0600057-360010-72017 (Library History Room Contributions) and be appropriated and expended from 0600057-560000-72017 (Library History Room Expenses) on the Brewer History Room project.

Note: the Brewer Public Library sends a letter of acknowledgement and appreciation on behalf of the City Council and the Library to all who contribute to the library.

2011-A234

December 13, 2011

TITLE: ORDER, ACCEPT FUNDS THE BREWER PUBLIC LIBRARY FROM THE SALE OF BAKED GOODS FOR THE HOLIDAYS AND AUTHORIZE USE OF THESE FUNDS FOR THE BREWER HISTORY ROOM PROJECT.

filed December 7, 2011
by Larry T. Doughty

WHEREAS, The Brewer Public Library has received funds totaling \$199 from the sale of donated Pies and assorted baked goods; and

WHEREAS, the library would like the funds to be used in the Brewer History Room project;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts the funds of \$199 from the proceeds of the bake sale; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the funds be deposited in 0600072-360015-72017 (History Room Donations) and be appropriated and expended from 0600072-560015-72017 (History Room Expenses) on the Brewer History Room project.

Note: The Brewer Public Library sends a letter of acknowledgement and appreciation on behalf of the City Council and the Library to all who contribute to the library.

2011-A235

December 13, 2011

TITLE: ORDER, ACCEPT DONATION FROM BEEF O'BRADY'S TO THE BREWER FIRE DEPARTMENT FOR THE PUBLIC SAFETY MUSEUM.

filed December 7, 2011
by Arthur Verow

WHEREAS, the City of Brewer has received a donation of \$95.00 from Beef O'Brady's;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts this donation and directs that the donated funds be deposited in the Fire Museum Donation account 0200000-320000-59009; and

FURTHER ORDERED, that the City Council authorizes the appropriation and expenditure of these funds from the Department's budget account 0200000-520000-59009 (Fire Museum Expense); and

FURTHER ORDERED, that a letter of acknowledgement and appreciation be sent to Beef O'Brady's for their generous donation.

2011-A236

December 13, 2011

TITLE: ORDER, ACCEPT FUNDS IN A FORFEITURE RESULTING FROM A RECENT COURT CASE THAT THE BREWER POLICE MADE A SUBSTANTIAL CONTRIBUTION IN THE SUCCESSFUL PROSECUTION OF.

filed December 7, 2011
by Kevin O'Connell

WHEREAS, as a result of a criminal investigation conducted by a member of the Brewer Police Department a sum of money was seized and forfeited by a defendant involved in the investigation; and

WHEREAS, this sum of money was offered to the City in recognition of the valuable assistance of the Brewer Police Department in the successful completion of the investigation; and

WHEREAS, under Maine Law, title 15 M.R.S.A., § 5824 (3) the City Council must take a public vote before any forfeited assets or money can be transferred to the City;

NOW, THEREFORE BE IT ORDERED, that the City of Brewer, Maine, by vote of its City Council, does herewith approve the transfer of the following sum of money forfeited as a result of the recent criminal investigation cited:

Case Reference Number	Sum
CE-10-0041	\$3,669.12

AND FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to sign a memorandum to accept these forfeited funds on the behalf of the City of Brewer; and

FURTHER ORDERED, that these funds be deposited into the Asset Forfeiture Receipt Account 0200101-320000 and that expenditures are authorized from the Asset Forfeiture Expense Account 0200101-520000.

2011-A237

December 13, 2011

TITLE: ORDER, ACCEPT A QUITCLAIM DEED WITH COVENANT FROM THE CITY OF BREWER HIGH SCHOOL DISTRICT TRUSTEES FOR THE DEDICATION AND ACCEPTANCE OF AN EXTENSION OF CENTER STREET PURSUANT TO TITLE 23 M.R.S.A. SECTION 3025.

filed December 7, 2011
by Larry T. Doughty

WHEREAS, the City Council wants to extend Center Street prior to the City of Brewer High School District Trustees conveying a portion of the former Middle School and State Street School properties that are no longer necessary for educational purposes; and

WHEREAS, the City of Brewer High School District Trustees have delivered a Quitclaim Deed with Covenant to the City for the property to be dedicated and accepted as an extension of Center Street; and

WHEREAS, a copy of said Quitclaim Deed with Covenant is attached hereto and made a part hereof; and

WHEREAS, the City of Brewer High District Trustees have waived any claim for damages as the result of the transfer of said property; and

WHEREAS, all of the prerequisites of the Title 23 M.R.S.A. Section 3025 have been met;

NOW THEREFORE BE IT ORDERED, that the City Council on behalf of the Citizens hereby accepts the Quitclaim Deed with Covenant from the City of Brewer High School District Trustees that is attached hereto and made a part hereof and hereby accepts and dedicates it for highway purposes pursuant to Title 23 M.R.S.A. Section 3025; and

FURTHER ORDERED, that the City Clerk shall record said Deed in the Penobscot County Registry of Deeds.

2011-A238

December 13, 2011

TITLE: ORDER, ACCEPT DONATION TO THE BREWER PARKS AND RECREATION DEPARTMENT FOR THE AFTERSCHOOL PROGRAM.

filed December 7, 2011
by Joseph Ferris

WHEREAS, the Brewer Parks and Recreation Department has received a donation of \$100.00 from Charles and Eleanor Fisher for Brewer Parks and Recreation Department's Afterschool Program;

NOW, THEREFORE, BE IT ORDERED, that the City of Brewer, by vote of its City Council, herewith accepts this donation and directs that the donated funds be receipted to the Afterschool Program account (017123 300324); and

AND FURTHER ORDERED, that the City Council herewith authorizes the appropriation and expenditure of these funds from account 0117121 506100 (Afterschool Program).

NOTE: The Brewer Parks and Recreation Director sends a letter of acknowledgement and appreciation on behalf of the City Council to all those that donate to these programs.

2011-A239

December 13, 2011

TITLE: ORDER, AUTHORIZE CHANGE ORDER TO PENTA CORPORATION ON THE SEPTAGE RECEIVING STATION PROJECT FOR \$42,173. TO COVER ADDITIONAL COSTS ASSOCIATED WITH THE PROJECT.

filed December 7, 2011
by Arthur Verow

WHEREAS, while reducing the scope and cost of the Septage Receiving Station project, to get the project within available budget, a few important items were inadvertently left out of the project; and

WHEREAS, following is a list of items and cost estimate of the items included in the change order:

1. Modify handrail in Septage Receiving Room- \$2,576.81
2. Provide and install a clarifier drain valve- \$4,536.62
3. Install additional conduit- \$1,459.50
4. Provide and install conduit, wiring and heat tracing for septage piping in clarifier- \$2,691.15
5. Provide tank level probe suitable for explosion proof- \$1,092.00
6. Provide and install remote pump controls for existing primary pumps- \$20,050.11
7. Additional reinforcing rebar required for building foundation - \$2,285.75
8. To allow for removal and lifting of equipment inside the building, a monorail system and hoist will be re-added to the project - \$7,480.18; and

WHEREAS, the Septage Receiving Station project contingency at present is \$50,000., so there is adequate funds to cover this change order;

NOW, THEREFORE BE IT ORDERED, that the City Manager, or his designee, is authorized to execute a change order in the amount of \$42,173. with Penta Corporation of Moultonboro, NH, under such conditions as he feels are in the best interest of the citizens of Brewer, for the provisions of construction of the Septage Receiving Station; and

BE IT FURTHER ORDERED, that the cost of the change order for this work shall be funded from the project contingency and charged to account number 0680401-560060 (Contingency).

ACTION: Councilor Verow moved that the order have passage. The motion was seconded and passed.

Councilor Verow asked what the total cost is?

Ken Locke said \$727,000. Bid was \$670,000 with \$50,000 in contingency.

Councilor Verow asked why the need for the change order? Why weren't these items included in the original bid?

Ken Locke- the project was originally bid well over the bid amount in May 2010. in April 2011 the bid was still higher than the original amount budgeted so we negotiated with the low bidder and we got a price well below the budgeted amount.

The order was passed by unanimous vote.

2011-A240

December 13, 2011

TITLE: ORDER, AUTHORIZE CHANGE ORDER TO T BUCK FOR \$100,000 TO COVER ADDITIONAL COSTS RESULTING FROM UNANTICIPATED SUBSURFACE CONDITIONS ON THE BULKHEAD REPLACEMENT PROJECT.

filed December 7, 2011
by Kevin O'Connell

WHEREAS, it was anticipated that a significant amount of timber and miscellaneous debris would be encountered during the excavation required to remove the old 100 year old cribwork as required as part of the bulkhead replacement project at the Water Pollution Control Facility; and

WHEREAS, what was not known is that beneath the timber cribwork, there are large void spaces where earthen fill within the timber cribs has been lost as a result of 100 years of tidal action, eroded the soil and it has been lost to the river; and

WHEREAS, the hollow void spaces are a concern because the design of the new sheet pile wall relies on supporting the steel with an extensive series of large 10 ton concrete weights that are tied to the wall with steel rods, to tension the wall back from the river and give it structural stability; and

WHEREAS, the initial recommendation of our structural engineering sub-consultant was to remove all these voided crib areas, backfill the entire project area with 3" stone below the tidal level and gravel above it; and

WHEREAS, the estimated added project cost of this work exceeded \$600,000, which is well beyond the projects contingency funds of \$290,000; and

WHEREAS, further evaluation from structural, geotechnical and civil engineers concluded that a lesser cost option of utilizing high strength geotextile fabric under the large 10 ton concrete blocks would provide the required structural stability; and

WHEREAS, the estimated cost of this work is about \$56,030.19; and

WHEREAS, contractors had to remove a false floor in the cribwork in an area on the bulkhead where the wall returns into the bank which required additional backfilling and excavation; and

WHEREAS, repair of this area is estimated at \$33,318.38; and
2011-A240, page 2

WHEREAS, the total cost estimate for the change order on the bulkhead project to date is \$89,348.57; and

WHEREAS, it should be noted that it is very likely that there will be other site issues requiring adjustments of these cost estimates, therefore we are recommending a change order of not to exceed \$100,000 at this time; and

WHEREAS, the bulkhead project contingency at present is \$290,000, so there are adequate funds to cover this change order;

NOW, THEREFORE BE IT ORDERED, that the City Manager, or his designee, is authorized to execute a change order in the amount of not to exceed \$100,000 with T Buck of Auburn, ME, under such conditions as he feels are in the best interest of the citizens of Brewer, for the provisions of construction of the Water Pollution Control Facility Bulkhead Replacement Project; and

BE IT FURTHER ORDERED, that the cost of the change order for this work shall be funded from the project contingency and charged to account number 0680502-560060 (Contingency).

ACTION: Councilor O’Connell moved that the order have passage. The motion was seconded.

Councilor Verow moved that the order be amended by removing the word “of” and adding the language “not to exceed” in the second paragraph. The motion was seconded and passed by unanimous vote.

Ken Locke said he could not guarantee that we won’t be coming back to do another change order on this project.

The order, as amended, was passed by unanimous vote.

D. Monthly Reports.

ACTION: Councilor Verow moved that the monthly reports from the city departments be accepted and placed on file. The motion was seconded and passed by unanimous vote.

E. Nominations, Appointments, Elections.

2011-A241

December 13, 2011

TITLE: ORDER, APPOINT CITY MANAGER TO APPROVE ROAD EXCAVATION PERMITS.

filed December 7, 2011
by Kevin O’Connell

WHEREAS, under Title 23 M.R.S.A. Section 3351, the municipal road commissioner, in Brewer’s instance, the Director of Public Works, is authorized to direct owners to make sewer, water and conduit connections or other work as may be designated prior to the paving or substantially repairing any street or public highway; and

WHEREAS, under Title 23, M.R.S.A. Section 3352, the municipal road commissioner, in Brewer’s instance, the Director of Public Works, is authorized, in the case of an emergency, to grant and renew permits for digging and making excavations in the driveways of any of the public highways of the City for the repairing of gas, water, steam, oil, gasoline, petroleum or any other liquid or ammonia pipes or conduits or for any other lawful purpose; and

WHEREAS, both Sections 3351 and 3352 provide that in the absence of the municipal road commissioner, in Brewer’s instance, the Director of Public Works, the municipal officers may appoint some other official to act in his stead under these sections;

NOW, THEREFORE, BE IT ORDERED, the City Council herewith appoint Stephen Bost, Brewer City Manager, to give notices and grant permits under Title 23, M.R.S.A. Sections 3351 and 3352 in the absence of the Director of Public Works for calendar year 2012.

ACTION: Councilor O'Connell moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

2011-B040

December 13, 2011

TITLE: RESOLVE, RATIFY DIRECTOR OF ENVIRONMENTAL SERVICES', OR HIS DESIGNEE, APPOINTMENT OF AGENTS AT THE LANDFILL.

filed December 7, 2011
by Joseph Ferris

WHEREAS, Chapter 22, Article 10, Section 10.5 of the Charter, Codes and Ordinances of the City of Brewer provides that the Director of Environmental Services, or his designee, shall appoint such agents as he deems necessary to act in his stead in carrying out and enforcing the rules and regulations established for the use of the City's construction demolition debris landfill; and

WHEREAS, Chapter 22, Article 10, Section 10.5 of the Charter, Codes and Ordinances of the City of Brewer further provides that the appointment of such agents shall be ratified by a majority of the City Council at the first regularly scheduled council meeting of each calendar year; and

WHEREAS, the Director of Environmental Services, or his designee, has appointed Michael Hewes, Daisy Taylor and Sandee Barber as his agents to act in his stead in carrying out and enforcing the rules and regulations established for use of the City's landfill;

NOW, THEREFORE, BE IT RESOLVED, that the City Council herewith ratifies the Director of Environmental Services', or his designee, appointments of these individuals as his agents to act as his agents in carrying out and enforcing the rules and regulations established for use of the City's construction demolition debris landfill.

NOTE: The terms of these appointments are for one year commencing January 1, 2012 and expiring December 31, 2012.

ACTION: Councilor O'Connell moved that the resolve be adopted. The motion was seconded and passed.

The resolve was adopted by unanimous vote.

2011-B041

December 13, 2011

TITLE: RESOLVE, ACCEPT RESIGNATION OF MARILYN SPROUL
FROM THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY OF THE CITY OF BREWER.

filed December 7, 2011
by Larry T. Doughty

WHEREAS, Marilyn Sproul has submitted, by letter dated December 2, 2011, her resignation from the Board of Commissioners of the Housing Authority of the City of Brewer; and

WHEREAS, the City Council is required to formally accept this resignation and declare a vacancy on the Board of Commissioners of the Housing Authority of the City of Brewer for the unexpired term of Marilyn Sproul before a replacement can be appointed to fill this vacancy;

NOW, THEREFORE, BE IT RESOLVED, that the City Council herewith accepts Marilyn Sproul's resignation from the Board of Commissioners of the Housing Authority of the City of Brewer effective December 2, 2011 and declares that, on that date, a vacancy shall exist on the Housing Authority Board of Commissioners and the Council shall proceed to fill that vacancy for the unexpired term, which term shall expire March 31, 2015.

ACTION: Councilor Doughty moved that the resolve be adopted. The motion was seconded and passed.

The resolve was adopted by unanimous vote.

2011-B042

December 13, 2011

TITLE: RESOLVE, ACCEPT RESIGNATION OF JERRY GOSS FROM THE
HIGH SCHOOL DISTRICT TRUSTEES OF THE CITY OF
BREWER.

filed December 7, 2011
by Arthur Verow

EMERGENCY PREAMBLE

WHEREAS, resolves adopted by the Brewer City Council do not become effective until five days after approval unless such resolves contain emergency preambles;

WHEREAS, it is in the best interest of the City to accept the resignation immediately in order to fill the vacancy; and

WHEREAS, these facts create an emergency within the meaning of the Charter, Code and Ordinances of the City of Brewer and require that the following resolve become effective immediately upon its approval to protect the public health, common welfare and safety of the citizens of the Brewer; and

WHEREAS, Jerry Goss has submitted, by letter dated December 5, 2011, his resignation from the High School District Trustees of the City of Brewer; and

WHEREAS, the City Council is required to formally accept this resignation and declare a vacancy on the High School District Trustees of the City of Brewer for the unexpired term of Jerry Goss before a replacement can be appointed to fill this vacancy;

NOW, THEREFORE, BE IT RESOLVED, that the City Council herewith accepts Jerry Goss' resignation from the High School District Trustees of the City of Brewer effective December 6, 2011 and declares that, on that date, a vacancy shall exist on the High School District Trustees and the Council shall proceed to fill that vacancy for the unexpired term, which term shall expire November 5, 2013.

ACTION: Councilor Verow moved that the resolve be adopted. The motion was seconded.

Mayor Goss mentioned that he had spoke to the City Councilors and the School Superintendent to make sure they knew where he stood regarding conflict of interest which the City Solicitor concurred that there was no conflict.

Councilor Verow moved that an emergency preamble be added to the resolve. The motion was seconded and passed.

The resolve, as amended, was adopted by unanimous vote.

2011-A242

December 13, 2011

TITLE: ORDER, APPOINT MANLEY DEBECK, JR. TO THE HIGH SCHOOL DISTRICT TRUSTEES OF THE CITY OF BREWER TO FILL A VACANCY FOR AN UNEXPIRED TERM.

filed December 7, 2011
by Larry T. Doughty and
Kevin O'Connell

ORDERED, that Manley DeBeck, Jr., 25 Goupee Street, is herewith appointed to the High School District Trustees of the City of Brewer fill a vacancy of an unexpired term;

ORDERED, that Mr. DeBeck's term will commence December 18, 2011 December 14, 2011 and expire November 5, 2013.

ACTION: Councilor Doughty moved that the order have passage. The motion was seconded.

Councilor Ferris moved that the order be amended by replacing the date “December 18, 2011” with “December 14, 2011”. The motion was seconded and passed by unanimous vote.

The order, as amended, was passed by unanimous vote.

F. Unfinished Business.

1. (2011-C016) Amend the Land Use Code, Chapter 24, Article 3 Zoning Districts, Section 307.1 Schedule of Dimensional Requirements, Item 7 Maximum Building or Structure Coverage Percentage of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Doughty) (posted 10/10/11)

ACTION: Councilor Doughty moved that the ordinance amendment be enacted. The motion was seconded and passed.

The ordinance amendment was enacted by unanimous vote.

2. (2011-C017) Amend the Land Use Code, Chapter 24, Article 4 Performance Standards, Section 438.7 Medical Marijuana Registered Dispensaries and Medical Marijuana Cultivation Facilities, Item 7 of the Charter, Codes and Ordinances of the City of Brewer. (Councilor Goss)(posted 10/10/11)

ACTION: Councilor Verow moved that the ordinance amendment be enacted. The motion was seconded and passed.

The ordinance amendment was enacted by 4 to 1 vote, Councilor Ferris abstained.

G. New Business.

2011-C020

December 13, 2011

TITLE: AMEND THE LAND USE CODE, CHAPTER 24, ARTICLE 4 PERFORMANCE STANDARDS, SECTION 430 SIGNS, OF THE CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER.

filed December 7, 2011
by Larry T. Doughty

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 24, Article 4 (Performance Standards), Section 430 (Signs) of the Charter, Codes and Ordinances of the City of Brewer entitled "Land Use Code" be amended by striking out all provisions of Section 430 and adding the following statement under Section 430 Signs:

Refer to Chapter 28. Brewer Sign Ordinance of the City of Brewer Codes and Ordinances for sign regulations.

ACTION: Councilor Doughty moved that the proposed ordinance amendment be filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

2011-C021

December 13, 2011

TITLE: AMEND CHAPTER 28 "THE BREWER SIGN ORDINANCE", OF THE CHARTER, CODES AND ORDINANCE OF THE CITY OF BREWER BY COMPLETE SUBSTITUTION OF THE CHAPTER.

filed December 7, 2011
by Arthur Verow

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 28 "The Brewer Sign Ordinance" of the Charter, Codes and Ordinances of the City of Brewer be amended by complete substitution of the Chapter:
(Please see attached)

ACTION: Councilor Doughty moved that the proposed ordinance amendment be filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

2011-A243

December 13, 2011

TITLE: ORDER, CONVENE IN EXECUTIVE SESSION PURSUANT TO TITLE 1, M.R.S.A. §405(6)(E) ON A LEGAL MATTER.

filed December 7, 2011
by Joseph Ferris

ORDERED, that the City Council convene in executive session pursuant to Title 1, M.R.S.A. §405(6)(E) on a legal matter.

ACTION: Councilor Ferris moved that the order have passage. The motion was seconded.

Councilor Ferris moved that the Council convene into executive session. The motion was seconded and passed by unanimous vote.

Chairman Goss said the City Council, Assistant City Manager and City Solicitor would convene into executive session. He said the regular meeting would resume after the executive session. (6:54 p.m.)

The regular meeting was called back to order by Chairman Jerry Goss. (7:12 p.m.)

The city clerk called the roll:

Chairman Goss	-	present	Councilor Doughty	-	present
Councilor Ferris	-	present	Councilor O'Connell	-	present
Councilor Verow	-	present			

H. New Items with Leave of Council.

Councilor Verow mentioned that the Bangor City Council voted 9 to 0 to keep the Dorothy Dix Facility open and would like to have a similar resolve in front of this council for the January 2012 meeting.

Chairman Goss said he would accept a motion for adjournment.

ACTION: Councilor Doughty moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 7:15 p.m.

ADJOURNED, ATTEST: _____ Howard F. Kroll
City Clerk

A TRUE COPY, ATTEST: _____ Brewer, Maine